HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 187/2001
(Old No. 762 of 1993)

Adesh Kumar ……Appellant

Vs.

Smt. Shyam Lata and State of U.P. …….Respondents

Hon'ble Irshad Hussain, J.

Heard Sri Tumul Nailwal Advocate in brief for Sri S. N. Babulkar Learned counsel for the revisionist and Sri H.C. Pandey learned A.G.A. and perused the record.

This criminal revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') was preferred against the judgment and order dated 26.2.1993 passed by the IIIrd Addl. Sessions Judge, Dehradun whereby the revision of the respondent-wife was allowed and the order passed by the learned Magistrate in case no. 11/11M/1991 Smt. Shyam Lata Vs. Adesh Kumar was set-aside and the case was remanded to the Magistrate concerned for decision afresh in accordance with law. A date was fixed for appearance before the learned Magistrate.

As is evident from the order dated 7.1.1992, the learned Magistrate did not assign any cogent reason to dismiss the petition. The said order was neither speaking nor the matter was decided on merit and therefore the learned Sessions Judge was legally justified to have it set-aside in exercise of revisional original jurisdiction. The order passed in the criminal revision by the learned Sessions Judge being just and proper the present petition lacks merit and the same is liable to be dismissed. The revision is, therefore, dismissed.

(Irshad Hussain, J.)

Date 23.4.2004
Rawat